

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA,  
APPROVING AND RATIFYING A REAL ESTATE PURCHASE AND SALE  
AGREEMENT DATED NOVEMBER 9, 2023, BETWEEN ELEVANCE HEALTH, INC.,  
F/K/A ANTHEM, INC. AND THE CITY OF HARRISONBURG.**

**WHEREAS**, the City Manager and City Attorney have negotiated and executed a Purchase and Sale Agreement dated November 9, 2023, between the City of Harrisonburg and Elevance Health, Inc., f/k/a Anthem, Inc. (the Agreement) pursuant to which the City agreed to purchase 15.230 acres, more or less, located at 450 Mt. Clinton Pike in the City and more particularly identified in the Agreement (the Property) from Elevance Health, Inc. for the purchase price of One Million, Three Hundred Thousand Dollars (\$1,300,000.00), to be used for various projects either previously approved by Council or future projects.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF  
THE CITY OF HARRISONBURG, VIRGINIA:**

That the City Council of the City of Harrisonburg, Virginia, hereby approves and ratifies the Agreement and directs the City Manager to execute a deed accepting the conveyance of the Property from Elevance Health, Inc. in accordance with the Agreement, together with any necessary closing documents, and to take all other actions necessary to fund and consummate the purchase of the Property.

Approved: November 28, 2023

  
MAYOR

ATTEST:

  
CITY CLERK

## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the “Agreement”), dated November 9, 2023 for identification, is made by and between **ELEVANCE HEALTH, INC., f/k/a Anthem, Inc.**, an Indiana corporation (the “Seller”), and the **City of Harrisonburg, Virginia**, a Virginia municipal corporation (the “Purchaser”). In consideration of the mutual covenants and promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties to this Agreement, the parties agree to the following terms and conditions:

1. **PURCHASE AND SALE.** Subject to the terms of this Agreement, Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller the following real property (the “Property”):

1.1 That certain lot or parcel located in the City of Harrisonburg, Virginia, containing 15.230 acres, more or less, having a tax map parcel identification number of 46 C 4-A and a street addresses of 450 Mt. Clinton Pike, Harrisonburg, VA 22802, including any improvements thereon and therein, and being the same real estate conveyed to the Seller by deed dated February 9, 2015, from Rockingham Co-Operative Farm Bureau, Incorporated, recorded February 20, 2015 in the Clerk’s Office of the Circuit Court of Rockingham County, Virginia in Deed Book 4532, page 647; and

1.2 All privileges, rights-of-way, and other tenements, hereditaments, and appurtenances, if any, pertaining or accruing to the benefit of the Property.

2. **EFFECTIVE DATE.** The effective date of this Agreement shall be the date when the last one of Seller or Purchaser has signed this Agreement, as stated on the signature page (the “Effective Date”).

3. **CLOSING DATE.** Subject to other provisions of this Agreement for extension or termination, closing on the transaction described in this Agreement (the “Closing”) shall be held through the offices of Purchaser, Seller, or other mutually agreed office, 30 days after the completion of the Investigation Period or a date designated by Purchaser in a written notice to Seller (the “Closing Date”), delivered at least ten (10) days prior to such date; provided, Closing shall not occur before January 2, 2024.

4. **PURCHASE PRICE.** The total purchase price (the “Purchase Price”) to be paid by Purchaser to Seller for the Property is \$1,300,000.00, which shall be paid in cash at Closing subject to proration and adjustments as provided in this Agreement.

5. **EARNEST MONEY.** On or prior to the Effective Date, the Purchaser will make an earnest money deposit with Cottonwood/Commercial of Ten Thousand Dollars (\$10,000) (the “Earnest Money”), provided however, if Cottonwood/Commercial is unable to receive payments by wire transfer, Purchase shall have ten (10) days to deposit the Earnest Money. The Earnest Money shall be held and applied in conformity with the regulations of the Virginia Real Estate

Board and this Agreement. Pursuant to such regulations, if the sale of the Property is consummated, then the Earnest Money shall be paid to Seller and applied to the payment of the Purchase Price. If Purchaser terminates this Agreement in accordance with any right to terminate granted by this Agreement, the Earnest Money shall be immediately returned to the Purchaser, and no party shall have any further obligations under this Agreement except those stated to survive termination. In the event the sale of the Property is not consummated due to a default by Purchaser, the Earnest Money shall be delivered by Cottonwood/Commercial to Seller, and no party shall have any further obligations under this Agreement except those stated to survive termination. Upon expiration of the Investigation Period, except as expressly set forth in this Agreement, the Earnest Money shall become non-refundable.

6. NO OTHER MARKETING, PURCHASE AND SALE AGREEMENTS. As long as this Agreement is in full force and effect, Seller shall not actively market the Property or enter into any other purchase and sale agreement affecting any portion of the Property.

7. TITLE EVIDENCE. On or prior to the last day of the Investigation Period (the "Investigation Period Expiration Date"), Purchaser may, at Purchaser's expense, obtain an ALTA title insurance commitment (the "Commitment"), with fee owner's title policy premium and all other costs related therewith to be paid by Purchaser at Closing, issued by the Purchaser's title insurance company (the "Title Insurer"). The Commitment shall show Seller to be vested with good and insurable fee simple title to the Property, subject to all of the following (the "Permitted Exceptions"):

7.1 Any ad valorem real estate taxes for 2023 and subsequent years;

7.2 All applicable zoning and building law ordinances and regulations;

7.3 Public utility service easements and rights-of-way and easements as shown on the recorded plats of the Property; and

7.4 Any matters reflected in Purchaser's Commitment that are not objected to by Purchaser as provided in Section 9 and any matters that Purchaser has objected to as "title defects" pursuant to Section 9, but which Seller has not agreed to cure.

8. SURVEY.

8.1 Within the time period for providing the Commitment, Purchaser may also obtain, at Purchaser's expense, an ALTA survey (the "Survey") of the Property.

8.2 If the Survey reflects any encroachments, overlaps, unrecorded easements or similar rights in third parties, then the same shall be deemed "title defects" as set forth in Section 9.

9. TITLE DEFECTS.

9.1 Purchaser shall have until the Investigation Period Expiration Date within which to examine matters of title affecting the Property and any matters shown by the Survey. Purchaser may, no later than ten (10) days before the Investigation Period Expiration Date, notify Seller in writing specifying any title defect(s) (the "Title Objections"). If Purchaser fails to give Seller written notice of the Title Objections on or before such date, all title defects, including, without limitation, the defects shown in the Commitment and Survey shall be deemed to be waived as Title Objections for Closing.

9.2 Seller shall have five (5) days from the date of Seller's receipt of the Title Objections to notify Purchaser which defects it elects to attempt to cure; provided, Seller shall be under no obligation to remove or agree to remove the Title Objections. Seller's failure to deliver notice to Purchaser within such five (5) day period shall be conclusively deemed an election by Seller not to cure any Title Objections. If Seller fails to cure those Title Objections which it elects to attempt to cure on or before the Closing Date, Purchaser shall have the right to either: (i) terminate this Agreement, in which event the entire Earnest Money shall be returned to Purchaser and Purchaser and Seller shall have no further obligation to one another, except to the extent of any obligations for which this Agreement specifically provides for survival after such termination; or (ii) waive such Title Objection, in Purchaser's sole discretion, and proceed to Closing with no reduction in the Purchase Price. In the event Seller declines to cure one or more such Title Objections, Purchaser may elect as its sole remedy (A) to terminate this Agreement by giving written notice to Seller prior to the Investigation Period Expiration Date, in which event the entire Earnest Money shall be returned to Purchaser and Purchaser and Seller shall have no further obligation to one another, except to the extent of any obligations for which this Agreement specifically provides for survival after such termination; or (B) waive such Title Objections, in Purchaser's sole discretion, and proceed to Closing with no reduction in the Purchase Price.

9.3 If any new matters of record appear from the date of the Investigation Period Expiration Date through the Closing Date, which Seller does not eliminate as of the Closing Date, Purchaser shall have the option to:

9.3.1 Close and accept the title "as is," without reduction in the Purchase Price and without claim against Seller for such matters of record; or

9.3.2 Terminate this Agreement and both parties shall be released from all further obligations under this Agreement except as otherwise provided herein.

9.4 Notwithstanding the foregoing or anything in this Agreement to the contrary, Purchaser shall not be obligated to object to Seller's deeds of trust and mortgages, judgment liens, and mechanics' liens burdening the Property resulting from work performed at the express direction of Seller, and Seller shall convey title to the Property free and clear of any such monetary encumbrances at Closing.

9.5 EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT (THE "REPRESENTATIONS"), PURCHASER ACKNOWLEDGES THAT SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES, RENOUNCES AND DISCLAIMS, ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER,

WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, OF, AS TO, CONCERNING, OR WITH RESPECT TO, (i) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, (ii) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH MAY BE CONDUCTED THEREON, (iii) THE COMPLIANCE OF OR BY THE PROPERTY WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (iv) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, OR (v) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY. EXCEPT FOR THE REPRESENTATIONS, PURCHASER SHALL RELY SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED OR REPRESENTATIONS BY SELLER, ITS AGENTS OR CONTRACTORS. PURCHASER FURTHER ACKNOWLEDGES THAT PURCHASER IS PURCHASING THE PROPERTY IN AN "AS-IS" "WHERE IS" PHYSICAL CONDITION AND IN AN "AS IS" STATE OF REPAIR, WITH ALL FAULTS. EXCEPT FOR THE REPRESENTATIONS, PURCHASER ON BEHALF OF ITSELF AND ITS SUCCESSORS AND ASSIGNS WAIVES ITS RIGHT TO RECOVER FROM, AND FOREVER RELEASES AND DISCHARGES, SELLER AND SELLER'S OFFICERS AND DIRECTORS FROM ANY AND ALL DEMANDS, CLAIMS, LEGAL OR ADMINISTRATIVE PROCEEDINGS, LOSSES, LIABILITIES, DAMAGES, PENALTIES, FINES, LIENS, JUDGMENTS, COSTS OR EXPENSES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND COSTS), WHETHER DIRECT OR INDIRECT, KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, WITH RESPECT TO THIS AGREEMENT OR THAT MAY ARISE ON ACCOUNT OF IN ANY WAY BE CONNECTED WITH THE CONDITION OF THE PROPERTY AND HAZARDOUS MATERIALS ON, UNDER OR ABOUT THE PROPERTY AND ANY OTHER LAW, CODE OR REGULATION, INCLUDING, WITHOUT LIMITATION, THE AMERICANS WITH DISABILITIES ACT, APPLICABLE TO THE PROPERTY.

10. LEASES. As of the date hereof, to Seller's knowledge, there are no occupancies or tenancies affecting the Property.

11. INVESTIGATION PERIOD.

11.1 From the Effective Date until the day which is ninety (90) days after the Effective Date (the "Investigation Period"), Purchaser shall have the right to conduct, at Purchaser's expense, whatever reasonable non-invasive investigations, analyses, and studies of the Property that Purchaser may deem appropriate with regard to:

11.1.1 The physical condition of the Property;

11.1.2 The permitted uses of and improvements to the Property under applicable building and zoning ordinances and the present compliance or non-compliance with the same;

11.1.3 Evidence of any hazardous waste or similar materials, and of radon, in, on, under or about the Property;

11.1.4 All existing contracts, agreements, leases, and tenancies affecting the Property, if any; and

11.1.5 Any other matters Purchaser deems relevant to its anticipated use of the Property as a fire station.

11.1.6 Purchaser may conduct invasive studies, such as a Phase II, upon the written consent of Seller, which may be withheld in Seller's sole discretion.

11.2 Within ten (10) days after the Effective Date, Seller shall deliver to Purchaser a copy of all non-privileged documents relating to the Property in Seller's possession at no additional material cost, including, without limitation, owner's policy and title insurance, its most recent topographical and/or ALTA survey(s), all soils, environmental and/or hazardous substance reports, including any Phase I or II Environmental Site Assessments, hazardous abatement reports, and any other information or documents within Seller's possession which may affect the Property. Seller disclaims any and all representations regarding any of the documents provided to Purchaser, including any representation as to accuracy, completeness or Purchaser's reliance on the Property Information.

11.3 To the extent permitted by applicable law, Purchaser hereby agrees to indemnify and save Seller harmless from all claims, losses, expenses and liability (the "Claims") arising from the entry onto the Property by Purchaser and its designated agents, representatives, and contractors, other than Claims arising from Seller's negligence or willful misconduct. Purchaser shall conduct its activities in accordance with good industry practice. Purchaser shall restore the Property to the same condition existing immediately prior to such access and investigations. To the extent permitted by law, Purchaser's indemnification and restoration obligations under this Section 11.3 shall survive termination of this Agreement. If Purchaser does not close on the purchase of the Property under this Agreement, to the extent any damage to the Property occurs from any investigations undertaken by Purchaser, its agents, employees and assigns pursuant to this Agreement, Purchaser shall restore the Property to the same condition prior to the occurrence of said damage.

11.4 Purchaser, its agents, and employees shall have the right to enter upon the Property for the purpose of making inspections at Purchaser's sole risk, cost and expense. The inspections under this Section 11 may include a Phase I Environmental Site Assessment(s) of the Property, but shall exclude a Phase II Environmental Site Assessments and other invasive studies, unless Purchaser obtains Seller's prior written consent to be withheld in Seller's sole discretion.

11.5 If Purchaser, in its sole discretion, is not satisfied with the results of its inspection and studies or the Commitment or the Survey, Purchaser may terminate the Agreement by written notice to Seller on or before the Investigation Period Expiration Date (the "Termination Notice"). If Purchaser fails to deliver such Termination Notice on or before the Investigation Period Expiration Date, Purchaser shall be deemed to have delivered the Notice to Proceed (as defined below).

11.6 At any time during the Investigation Period, Purchaser may elect to deliver to Seller a Notice to Proceed (the "Notice to Proceed"), and in such event, the Agreement shall

remain in full force and effect and subject to any other conditions of this Agreement, Purchaser shall be obligated to perform Purchaser's obligations under this Agreement and proceed to Closing.

12. REPRESENTATIONS, WARRANTIES AND COVENANTS.

12.1 Seller represents and warrants to Purchaser and covenants and agrees with Purchaser as follows:

12.1.1 Seller's execution and delivery of this Agreement and consummation of the transaction contemplated by this Agreement are within Seller's authority and capacity and all requisite action has been or is expected to be taken to make this Agreement a valid and binding obligation of Seller in accordance with its terms.

12.1.2 Seller's execution of this Agreement and consummation of the transaction contemplated hereby does not and will not result in a breach of or default under any indenture, agreement, instrument or obligation to which Seller is a party and which affects all or any portion of the Property.

12.1.3 To Seller's actual knowledge, with no duty to investigate or inquire, there are no actions, suits, proceedings, or investigations pending or threatened against the Property, or any pending or threatened condemnation, federal forfeiture action or similar proceeding affecting the Property, nor is Seller aware of any event which could give rise to a federal or state forfeiture action concerning the Property.

12.1.4 To Seller's actual knowledge, no petroleum products, pollutants, contaminants or hazardous or toxic substances, materials or wastes (including, but not limited to, asbestos-containing materials) have been released from or deposited on or otherwise affect the Property in violation of law, nor to Seller's knowledge has the Property been used at any time by any person as a hazardous waste treatment, storage or disposal site.

12.1.5 To Seller's actual knowledge, possession of the Property shall be given to the Purchaser at Closing free and clear of any and all tenancy and possessory rights whatsoever.

12.1.6 To Seller's actual knowledge, there exists no uncured notices which have been served on Seller by any governmental authority of violations of laws, rules or regulations which would affect the Property or its proposed improvement.

12.1.7 Seller is not bankrupt or insolvent under any applicable federal or state standard, has not filed for protection or relief under any applicable bankruptcy or creditor protection statute, and has not been threatened by creditors with an involuntary application of any applicable bankruptcy, receivership or creditor protection statute.

12.1.8 To Seller's actual knowledge, Seller has not entered into any option to purchase, right of first refusal, right of first offer, or other similar right with respect to all or a portion of the Property with any other third party, and Seller has not entered into any other contracts, oral or written, for the sale of all or any portion of the Property with any third party.

12.1.9 At all times during the term of this Agreement and as of Closing, all of Seller's representations, warranties and covenants in this Agreement shall be true and correct in all material respects.

Notwithstanding anything to the contrary contained herein, Purchaser shall not be entitled to rely on any representation or warranty made by Seller in this Agreement to the extent that, prior to or at Closing, Purchaser shall have or obtain actual knowledge of any information that is contradictory to such representation or warranty.

12.2 Purchaser represents and warrants to Seller and covenants and agrees with Seller as follows:

12.2.1 Purchaser's execution and delivery of this Agreement and consummation of the transaction contemplated by this Agreement are within Purchaser's authority and capacity and all requisite action has been or is expected to be taken to make this Agreement a valid and binding obligation of Purchaser in accordance with its terms.

12.2.2 Purchaser's execution of this Agreement and consummation of the transaction contemplated hereby does not and will not result in a breach of or default under any indenture, agreement, instrument, or obligation to which Purchaser is a party, or violate any applicable law.

12.2.3 Purchaser (a) is a sophisticated party, (b) is represented by competent counsel, and (c) understands and accepts the terms and provisions of this Agreement, including without limitation all releases, waivers, limitations, and assumptions of risk and liability set forth in this Agreement.

13. **DEFAULT BY SELLER.** In the event that Purchaser performs all of its obligations hereunder and Seller fails to perform any of the terms and conditions of this Agreement, is otherwise in default under this Agreement, or refuses to close this transaction, and fails to cure such default within ten (10) business days after receipt by Seller of written notice of such default from Purchaser, then Purchaser, at Purchaser's sole option and as its sole remedies, may elect to:

13.1 Waive the default or failure and close "as is" with no reduction in the Purchase Price; or

13.2 Terminate this Agreement by written notice to Seller given on or before the Closing Date and obtain a refund of the entire Earnest Money; and thereafter, both parties shall be released from all further obligations under this Agreement except as otherwise provided herein; or



13.3 Seek specific performance of Seller's obligations under this Agreement. Purchaser expressly acknowledges that in no event, shall Purchaser be entitled to recover (or pursue a cause of action to recover) any monetary damages as a result of a default or breach by Seller hereunder except in the event that Seller transfers the Property or an interest therein, in such a manner so as to frustrate Purchaser's ability to seek or obtain specific performance, in which event Purchaser shall be entitled to seek monetary damages, but specifically excluding punitive or consequential damages, against Seller for any loss Purchaser sustains thereby.

14. DEFAULT BY PURCHASER. In the event of the failure or refusal of Purchaser to close this transaction if otherwise obligated to do so under this Agreement or is otherwise in default under this Agreement and fails to cure such default within ten (10) business days after receipt by Purchaser of written notice of such default from Seller, Seller shall have the right to retain as liquidated damages all of the Earnest Money for said breach, whereupon the parties shall be relieved of all further obligations under this Agreement except as otherwise provided in this Agreement. The parties have agreed that Seller's actual damages, in the event of a failure to consummate this sale due to Purchaser's default, would be extremely difficult or impracticable to determine. After negotiation, the parties have agreed that, considering all the circumstances existing on the date of this Agreement, the amount of the liquidated damages is a reasonable estimate of the damages that Seller would incur in such event, not a penalty.

15. PRORATIONS AND COSTS.

15.1 Seller's Costs. Seller shall pay for the following items at Closing:

- Title curative instruments and monetary lien releases;
- Recording fees for curative instruments and monetary lien releases;
- Pro rata share of taxes and assessments;
- Delinquent taxes, interest and penalties levied against the Property;
- Preparation of the Deed;
- Grantor's tax on the transfer of the Deed;
- Attorney fees of Seller; and,
- Customary expenses incurred by Seller.

15.2 Purchaser's Costs. Purchaser shall pay for the following items at Closing:

- The Commitment and any and all other fees and expenses incurred by Purchaser in connection with its investigation of the Property;
- Owner's Policy of Title Insurance;
- Survey;
- Recording of the Deed;
- Settlement fees, including settlement agent's fee;
- Grantee's tax on the transfer of the Deed;
- Attorney fees of Purchaser; and,
- Customary expenses incurred by Purchaser.

15.3 At or before Closing, Seller shall pay or caused to be paid all real estate taxes and assessments levied against the Property due and owing for years prior to the year of Closing. General real estate taxes and assessments for the year of Closing shall be prorated as of

the date of Closing based on the tax statements issued for such year; provided, however, if tax statements have not yet been issued for the year of Closing, such taxes and assessments shall be prorated based on the application of the preceding year's rates to the latest assessed valuation. If, however, real estate taxes for the year covered by the apportionment are later determined to be higher or lower than those that are apportioned, a post-Closing adjustment shall be made between Seller and Purchaser.

15.4 The provisions of this Section 15 shall survive Closing.

16. CLOSING.

16.1 Seller shall deliver the following items to Purchaser at the Closing:

16.1.1 A Special Warranty Deed (the "Deed"), which shall be duly executed and acknowledged by the Seller so as to convey to Purchaser good and fee simple title to the Property, subject to the Permitted Exceptions;

16.1.2 An affidavit in a form as may be required by the Title Insurer that, to Seller's knowledge, there are no unrecorded easements, and that Seller has exclusive possession of the Property;

16.1.3 A non-foreign certificate as may be appropriate and satisfactory to Purchaser to meet the non-withholding requirements under FIRPTA and any other federal statute or regulations;

16.1.4 A Form 1099-S;

16.1.5 Instruments necessary to cure those Title Objections for which Seller has agreed to cure; and

16.1.6 Such other reasonable affidavits as the Title Insurer may reasonably require.

16.2 Purchaser shall deliver to Seller at Closing funds sufficient to pay the Purchase Price.

16.3 Seller and Purchaser shall each execute such other documents as are reasonably necessary to consummate this transaction.

17. BROKERS. Seller is represented by Chad Dunham of Cottonwood/Commercial. Purchaser is not represented by any real estate broker or agent. The Parties agree represent and warrant that except as set forth in this section neither has contacted any real estate broker, finder or similar person in connection with the sale or purchase of the property, and each party represents and warrants to the other that no broker commissions, finder fees or similar compensation are due or owing to any person or entity as a result of such party's actions, **EXCEPT** Cottonwood/Commercial who represents the Seller, to whom Seller shall pay, at closing, a commission pursuant to a separate agreement.

18. ASSIGNABILITY. This Agreement is not assignable by either party except with the prior written consent of the other, which consent will not be unreasonably withheld, conditioned or delayed.

19. NOTICES. Any notices required or permitted to be given under this Agreement shall be delivered by hand, by PDF file via electronic mail, or by a nationally recognized overnight delivery service, and addressed as described below or as described subsequently by written notice to the other party; notices shall be deemed effective only upon receipt or refusal of delivery or, if by PDF file via electronic mail sent after 5:00 p.m., Eastern time, on the next business day after transmission.

Notices to Purchaser:           The City of Harrisonburg  
  Attn: City Manager and City Attorney  
  409 South Main Street  
  Harrisonburg, VA 22801  
  Email: ande.banks@harrisonburgva.gov  
  Email: chris.brown@harrisonburgva.gov

Notices to Seller:               Elevance Health, Inc.  
  Attn: Terry Gardner  
  220 Virginia Avenue  
  Indianapolis, IN 46204  
  Email: terry.gardner@elevancehealth.com

With a copy to:                 Elevance Health, Inc.  
  Attn: Legal Department  
  220 Virginia Avenue  
  Indianapolis, IN 46204

With a copy to:                 Troutman Pepper  
  Attention: Kyle R. Kohler  
  1001 Haxall Point, 15<sup>th</sup> Floor  
  Richmond, Virginia 23219  
  Email: Kyle.kohler@troutman.com

With a copy to:                 Chad Dunham, Cottonwood/Commercial  
  1958 Evelyn Byrd Avenue  
  Harrisonburg, VA 22801  
  Email:

20. RISK OF LOSS.

20.1 The Property shall be conveyed to Purchaser in substantially the same condition as on the date of this Agreement, ordinary wear and tear excepted. Seller agrees to keep its customary property insurance, if any, covering the Property in effect during the term of this Agreement.

20.2 In the event that the Property is damaged or destroyed by fire or other casualty prior to Closing, Purchaser may elect to (i) proceed with the Closing, in which event Purchaser shall have the right to participate in the adjustment and settlement of any insurance claim relating to the loss or damage, and Seller shall assign and/or pay (to the extent Seller has received insurance proceeds) to Purchaser at Closing all insurance proceeds collected or claimed with respect to the loss or damage, with no reduction in the Purchase Price; or (ii) terminate this Agreement in which event the entire Earnest Money shall be returned to Purchaser, all obligations of the parties hereunder shall cease (except as otherwise specifically set forth herein as surviving termination) and this Agreement shall have no further force and effect.

21. MEMORANDUM OF CONTRACT. The parties shall not record this Agreement or any memorandum of this Agreement.

22. PURCHASER'S CONDITION PRECEDENT. The obligation of Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the performance and observance, in all material respects, by Seller of all covenants, warranties and agreements of this Agreement to be performed or observed by Seller prior to or on the Closing Date and the fulfillment on or before the Closing Date of all other conditions precedent to Closing benefiting Purchaser specifically enumerated in this Agreement, any or all of which may be waived by Purchaser in its sole discretion by an express written waiver. Upon the occurrence of the failure of a condition precedent to the obligation of Purchaser to close, Purchaser shall have the right to terminate this Agreement and neither party hereto shall have any further obligation or liability to the other except for any obligations hereunder which are stated to expressly survive Closing.

23. MISCELLANEOUS.

23.1 This Agreement has been negotiated and executed in Virginia. It shall be construed and governed in accordance with the laws of the Commonwealth of Virginia, without application of conflicts of laws principles.

23.2 In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

23.3 The obligations of Purchaser are subject to and contingent upon approval of this Agreement by the Council of the City of Harrisonburg. The obligations of Seller are subject to and contingent upon approval of the Agreement by Anthem, Inc, as required by its articles of incorporation, bylaws, or other applicable corporate document. Each Party shall secure such approvals within thirty-five (35) days of the Effective Date.

23.4 Each party has participated fully in the negotiation and preparation of this Agreement with benefit of counsel. Accordingly, this Agreement shall not be more strictly construed against either party.

23.5 Whenever used in this Agreement, the singular shall include the plural, the plural shall include the singular, any gender shall include every other and all genders, and captions and paragraph headings shall be disregarded.

23.6 The captions in this Agreement are for the convenience of reference only and shall not be deemed to alter any provision of this Agreement.

23.7 Any time period provided for in this Agreement which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m., Eastern time, of the next full business day of the Purchaser.

23.8 This Agreement constitutes the entire agreement between the parties and may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought. This Agreement may be executed in two or more counterparts and as so executed shall constitute a single instrument. The execution of this Agreement by fax or .PDF shall be deemed the same as “wet” signatures and fully binding on the parties hereto.

23.9 All references in this Agreement to exhibits, schedules, paragraphs, subparagraphs and sections refer to the respective subdivisions of this Agreement, unless the reference expressly identifies another document.

23.10 All of the terms of this Agreement, including but not limited to the representations, warranties and covenants of Seller, shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns.

**(The remainder of this page is intentionally left blank. Next pages are signature pages.)**

**IN WITNESS WHEREOF, Seller has executed this Agreement as of the date set forth hereinbelow.**

**SELLER:**

**ELEVANCE HEALTH, INC., f/w/a Anthem, Inc.**

By: 

Its: Its Authorized Representative

Date: 11/9/2023

IN WITNESS WHEREOF, Purchaser has executed this Agreement as of the date set forth hereinbelow.

**PURCHASER:**

**CITY OF HARRISONBURG**

By: Alexander Banks III

Its: Alexander Banks III  
City Manager

Date: 11/01/2023